2025:CGHC:22554-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 315 of 2025

Deepchand Alias Amirchand Pasi S/o Late Aganu Pasi Aged About 66 Years R/o Quarter Number 217/c, Risali Sector, Bhilai, Police Station-Nevai, District - Durg, Chhattisgarh

... Appellant(s)

versus

1. Steel Authority of India Limited Through - The Chairman, Having Its Registered Office At Ispat Bhawan, Lodhi Road, New Delhi – 110003

2. Bhilai Steel Plant Unit of the The Steel Authority of India Limited, Through The Director-In-Charge, Bhilai Steel Plant, Bhilai, District - Durg, Chhattisgarh 490021

3. The Deputy General Manager (M. And S.), Coke Ovens And C.C.D., Bhilai Steel Plant, Bhilai, District - Durg, Chhattisgarh 490021

...Respondent(s)

For Appellant	:	Mr. Ashwin Panickar, Advocate.
For Respondents	:	Mr. P.R. Patankar, Advocate.

BRIJMOHAN MORLE
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Date: 2025.06.10 14:55:41 +0530

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

***Per* Ramesh Sinha, Chief Justice**

09.06.2025

1. Heard Mr. Ashwin Panickar, learned counsel for the appellant. Also heard Mr. P.R. Patankar, learned counsel, appearing for the respondents.

2. The present intra Court appeal has been filed by the appellant against the order dated **05.03.2025** passed by the learned Single Judge in **WPL No. 43 of 2025** (***Deepchand Alias Amirchand Pasi vs. Steel Authority of India Ltd. & Others***), whereby the learned Single Judge has dismissed the writ petition filed by the appellant/writ petitioner.

3. Brief facts of the case are that the appellant was initially employed with Bhilai Steel Plant as an Emergency Labourer vide order dated 16.11.1988; he was promoted to the post of Technician Level S-5 in the year 2007. On 22.06.2006, the sister-in-law of the appellant, namely, Shyama Devi, made a complaint to Bhilai Bhatti Police Station to the effect that the real name of the appellant is 'Amirchand Pasi' and he is working under the Bhilai Steel Plant in the name of her deceased husband, Late 'Deepchand Pasi.' Thereafter, an FIR bearing Crime No.80 of 2006 was registered against the appellant for the commission of offences punishable under Sections 419 and 420 of the Indian Penal Code (IPC).

4. Learned counsel for the appellant submits that the appellant joined the employment of the Bhilai Steel Plant as emergency labourer on

16.11.1988. Subsequently, the appellant was promoted and as on 2007 was working in the post of Technician Level S-5. He further submits that on 22.06.2006 sister-in-law of the appellant, namely, Shyama Devi filed a complaint with the Bhilai Bhatti Police Station that the appellant's real name is ‘Amirchand Pasi’ and he is working with the Bhilai Steel Plant under the name of her deceased husband late ‘Deepchand Pasi’. Based on the complaint FIR bearing Crime No. 80 of 2006 was registered for offences punishable under Sections 419 and 420 of the IPC against the appellant.

5. It is further stated by the learned counsel for the appellant that on account of the FIR against the appellant, a departmental enquiry was instituted by the Bhilai Steel Plant on the charge of giving false information regarding his name at the time of employment. Thereafter, on 11.08.2007, the Inquiry Report was submitted wherein it was held to be proved that the appellant had given false information regarding his name at the time of employment. He also stated that on 12.12.2007, the appellant was removed from service. Based on FIR bearing Crime No. 80 of 2006 Criminal Case No. 16716/2006 was instituted before the learned Judicial Magistrate First Class, Durg. He would submit that by judgment dated 13.09.2019, the learned Judicial Magistrate First Class, Durg acquitted the appellant from offences under Sections 419 and 420 of the IPC.

6. Learned counsel for the appellant contended that since the appellant had reached the age of superannuation on 31.01.2018, hence, by legal notice dated 21.11.2020 he sought payment of back-wages and consequential benefits to the tune of Rs. 90 lakhs from the respondent No.2. But, no payment was made to the appellant thereafter, he filed an

application under Section 33(c)(2) of the C.G. Industrial Disputes Act, 1947 (for short, 'Act of 1947') before the learned Labour Court, Durg for payment of back-wages and retirement benefits. The learned Labour Court, Durg by order dated 05.08.2022 dismissed the application on the ground that the same is not maintainable on account of undetermined point of dispute. Thereafter, on 14.03.2023, the appellant filed application under Section 31(3) read with Section 61 of the C.G. Industrial Relations Act, 1960 (for short, 'Act of 1960') before the learned Labour Court, Durg. On 19.10.2023, the learned Labour Court, Durg dismissed the appellant's application on the ground of limitation.

7. Learned counsel for the appellant would submit that on 19.12.2023, the appellant preferred an appeal before the learned State Industrial Court, Raipur under Section 65 of the Act of 1960. On 29.11.2024, the learned State Industrial Court, Raipur dismissed the appeal on the delay. He further submits that the appellant approached this Court by filing writ petition bearing WPL No. 43 of 2025 and on 05.03.2025, the learned Single Judge on the ground that stale matters cannot be revived and re-opened by taking aid of Section 5 of the Limitation Act dismissed the writ petition and thereby declined to interfere with the removal order dated 12.12.2007.

8. It is further submitted by the learned counsel for the appellant that the appellant is a layman and has passed the second standard only; therefore, he could not challenge the order passed by the disciplinary authority dated 12.12.2007 within limitation. He would further submit that on the same set of allegations, a criminal case was also lodged against the appellant and he was pursuing that case. He would also submit that

after acquittal in the criminal case on 13.09.2019, the appellant approached the respondent authorities for reinstatement, back-wages and other consequential benefits. He would contend that the learned Labour Court as well as the learned State Industrial Court committed an error of law in dismissing the claim of the appellant on the ground of limitation. He also submits that the learned Single Judge dismissed the writ petition on the ground that the appellant making stale claims, but the appellant's claim is of continuous violation of his claim for back-wages and consequential benefits from date of removal till date of retirement survives and the Courts below and learned Single Judge erred in dismissing the same on account of limitation. Hence, the aforesaid impugned order dated 05.03.2025 is untenable in the eyes of law.

9. On the other hand, learned counsel, appearing for the respondents submits that the learned Single Judge after considering all the aspects of the matter has rightly dismissed the writ petition filed by the appellant/writ petitioner, in which no interference is called for. It is further submitted by the learned counsel, appearing for the respondents that the appellant impersonated himself and secured employment by producing false identification. He would further submit that an FIR was lodged against the appellant and a criminal case was also lodged. He would also submit that on the same set of allegations, a departmental enquiry was initiated against the appellant. The departmental enquiry was initiated according to the provisions of Clause 29 (iv) of the Standing Orders of the Plant which states that "giving false information regarding his name at the time of employment." He would contend that in the departmental enquiry, the appellant was afforded full opportunity. He would further contend that the

penalty was inflicted on the appellant by the disciplinary authority vide order dated 12.12.2007 and the appellant kept mum for a long 13 years. He would also contend that for the first time, a legal notice dated 21.11.2020 was served upon the respondents. He would argue that the appellant moved an application under Section 33 (c) (2) of the Act of 1947 on 08.06.2022, which was dismissed vide order dated 05.08.2022. thereafter, the appellant moved an application under Section 31(3) read with Section 61 of the Act of 1960 on 14.03.2023 which was dismissed vide order dated 19.10.2023. It is further stated that the appellant failed to explain the delay in filing the application under Section 31(3) read with Section 61 of the Act of 1960 before the learned Labour Court; therefore, his application was dismissed and the findings recorded by the learned Labour Court have been affirmed by the learned Industrial Court, Raipur.

10. We have heard learned counsel for the parties and perused the impugned judgment and materials available on record.

11. The allegation against the petitioner was that he secured employment under the respondents by furnishing false information with regard to his name. An FIR was registered and a Criminal Case was lodged. A departmental enquiry was initiated against the petitioner and after full fledged enquiry, the disciplinary authority inflicted the punishment of removal from services.

12. Section 62 of the Act of 1960, reads as under:-

> "*62. Commencement of proceedings— Proceedings before a Labour Court shall be commenced-*
>
> *(i) in respect of a dispute falling under clause (a) of*

paragraph (A) of subsection (1) of Section 61 within two years from the date of the dispute; Provided that—

(a) if the dispute is connected with the termination of the services of an employee, such proceedings shall commence within a year from the date of termination of the services of the concerned employee;

(b) nothing contained in the foregoing provision shall apply if the concerned employee had made an approach before the 30th day of July, 1976 in accordance with the provisions contained in sub-section (3) of section 31 as it stood before the said date and in that case the provisions contained in sub-section (3) of section 31 and clause (1) of this section shall be applicable as they had been before the said date;

(c) Where an employee has preferred an appeal or representation against an order of termination under any rule, regulation or standing orders to the competent authority within the period prescribed for such appeal or representation or where no such period is prescribed within three months of the order of termination, such proceedings may be commenced within one year from the date of the disposal of the appeal or representation, as the

case may be.

(ii) in respect of matters specified in clause (c) of paragraph (A) of subsection (1) of section 61, within three months of the commencement of the strike, lockout, stoppage, closure or of the making of the change on an application made by the employer, the representative of employees, any employee directly affected thereby or by Labour Officer; Provided that the Labour Court may, for sufficient reasons, admit any application for a declaration that a change is illegal under the Act, after the expiry of three months from the date on which such change was made."

13. According to the provisions of Section 62 of the Act of 1960, an application can be moved before the competent Court within a period of one year from the accrual of cause of action.

14. In the present case, the cause of action accrued on 12.12.2007, when the appellant was removed from services by the disciplinary authority. Though the criminal case was pending against the appellant, but the appellant slept over his rights for more than 15 years and the first application under Section 33(c)(2) of the Act of 1947 was filed on 08.06.2022, which was dismissed being not maintainable. Thereafter, the appellant moved an application under Section 31(3) read with Section 61 of the Act of 1960 on 14.03.2023, but he failed to explain the delay properly. The pendency of the criminal case cannot be a ground to condone the delay when the cause of action arose in the year 2007 itself.

Though the appellant was acquitted in the criminal case vide judgment dated 13.09.2019, but on this ground alone, the delay cannot be condoned. The appellant ought to have explained the delay properly in the application moved before the learned Courts below.

15. Learned Single Judge relied on the judgment of the Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy (Died) by LRs. & Others vs. The Special Deputy Collector (LA)***, reported in ***2024 SCC OnLine SC 513 : 2024 4 SCR 241 : 2024 INSC 286*** dealt with the object of the law of limitation. In para 10 & 11, the object and import of Section 3(1) of the Limitation Act were considered and it was observed thus:-

> "*10. Section 3(1) of the Limitation Act, for the sake of convenience, is reproduced herein-below:*
>
> > *3. Bar of limitation. - (1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence.*
>
> *11. Though Section 3 of the Act mentions about suit, appeal and application but since in this case we are concerned with appeal, we would hereinafter be mentioning about the appeal only in context with the limitation, it being barred by time, if at all, and if the delay in its filing is liable to be condoned.*"

16. The Hon'ble Court referred to various judgments in the matter of ***Pathapati Subba Reddy*** (supra) in paras 19, 20, 21, 22 and 23, which are reproduced herein-below:-

> "*19. In Maqbul Ahmad and Ors. vs. Onkar Pratap Narain Singh and Ors, A.I.R. 1935 PC 85, it had been held that the court cannot grant an exemption from limitation on equitable consideration or on the ground of hardship. The court has time and again repeated that when mandatory provision is not complied with and delay is not properly, satisfactorily and convincingly explained, it ought not to condone the delay on sympathetic grounds alone.*
>
> *20. In this connection, a reference may be made to Brijesh Kumar and Ors. vs. State of Haryana and Ors, 2014 (4) SCALE 50 , wherein while observing, as above, this Court further laid down that if some person has obtained a relief approaching the court just or immediately when the cause of action had arisen, other persons cannot take the benefit of the same by approaching the court at a belated stage simply on the ground of parity, equity, sympathy and compassion.*
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> *21. In Lanka Venkateswarlu vs.State of Andhra Pradesh & Ors.,[2011] 3 SCR 217 : (2011) 4 SCC 363, where the High Court, despite unsatisfactory explanation for the delay of 3703 days, had allowed the applications*

for condonation of delay, this Court held that the High Court failed to exercise its discretion in a reasonable and objective manner. High Court should have exercised the discretion in a systematic and an informed manner. The liberal approach in considering sufficiency of cause for delay should not be allowed to override substantial law of limitation. The Court observed that the concepts such as 'liberal approach', 'justice- oriented approach' and 'substantial justice' cannot be employed to jettison the substantial law of limitation.

22. It has also been settled vide State of Jharkhand & Ors. vs. Ashok Kumar Chokhani & Ors., AIR 2009 SC 1927, that the merits of the case cannot be considered while dealing with the application for condonation of delay in filing the appeal.

23. In Basawaraj and Anr. vs. Special Land Acquisition Officer, [2013] 8 SCR 227 : (2013) 14 SCC 81 , this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as

prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds."

17. In para 26, the Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy*** (supra) summarized the judgments passed in the above stated decisions and the same is reproduced herein-below:-

"*26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind

but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision."

18. In para 30, the Hon'ble Supreme Court held that condonation of the delay merely for the reason that the claimants have been deprived of the

interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach. Para 30 is reproduced herein-below:-

> "*30. The aforesaid decisions would not cut any ice as imposition of conditions are not warranted when sufficient cause has not been shown for condoning the delay. Secondly, delay is not liable to be condoned merely because some persons have been granted relief on the facts of their own case. Condonation of delay in such circumstances is in violation of the legislative intent or the express provision of the statute. Condoning of the delay merely for the reason that the claimants have been deprived of the interest for the delay without holding that they had made out a case for condoning the delay is not a correct approach, particularly when both the above decisions have been rendered in ignorance of the earlier pronouncement in the case of Basawaraj (supra).*"

19. The Hon'ble Supreme Court in the matter of ***Pathapati Subba Reddy*** (supra) further held that the phrases 'liberal approach', 'justice-oriented approach' and 'cause for the advancement of substantial justice' cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and re-opened by taking aid of Section 5 of the Limitation Act.

20. Taking into consideration the facts of the case and the law laid

down by the Hon'ble Supreme Court, learned Single Judge held that no case is made out for interference.

21. Considering the pleadings made in writ appeal, submissions advanced by the learned counsel appearing for the parties and also considering the findings recorded by the learned Single Judge while dismissing the writ petition filed by the appellant/writ petitioner, we are of the considered opinion that the learned Single Judge has not committed any illegality, irregularity or jurisdictional error warranting interference by this Court.

22. Accordingly, the present writ appeal being devoid of merit is liable to be and is hereby **dismissed**.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Brijmohan